

Executive Summary

R657-41. Conservation and Sportsmen Permits. (SHORT VERSION)

This rule: 1) establishes the standards and procedures for issuing sportsmen permits, 2) establishes the standards and procedures for issuing conservation permits to conservation organizations, which are then sold at auctions, or used as aid to wildlife related fund raising activities, and 3) defines the procedure for how revenue derived from conservation permits may be used to benefit wildlife.

The proposed revisions to this rule: 1) define Conservation Permit Species, 2) address concerns over allocation of conservation permits to improve compliance with state bidding laws, 3) address concerns over conservation permits being distributed in a raffle or lottery, 4) remove sandhill crane from the list of available sportsman permits, and 5) make technical corrections.

R657. Natural Resources, Wildlife Resources.

R657-41. Conservation and Sportsman Permits. (SHORT VERSION)

R657-41-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and

(b) sportsman permits.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-5(4) and R657-41-5(5)(b) for the benefit of the species for which the permit is issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a [specific] conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the general season.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units[, and Area Conservation permits issued for general season hunt areas are not valid on cooperative wildlife management units or limited entry units].

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1(2).

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection ~~[(e)]~~(f), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

~~[(e)]~~(f) "Statewide Conservation Permit" means a permit issued for a conservation permit species which allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15;

(ii) turkey on any open unit from April 1 through May 31;

- (iii) ~~[any other small game species]~~ bear on any open unit during the season authorized by the Wildlife Board for that unit;
- ~~[(iv) bear on any open unit during the season authorized by the Wildlife Board for that unit;~~
- ~~(v)~~(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective; and
- (vi) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit.

R657-41-3. Method for Determining the Number of Conservation and Sportsman Permits.

- (1) The number of conservation permits authorized by the Wildlife Board shall be based on:
- (a) the species population trend, size, and distribution to protect the long-term health of the population;
 - (b) the hunting and viewing opportunity for the general public, both short and long term; and
 - (c) the potential revenue that will support protection and enhancement of the species.
- (2) One statewide conservation permit may be authorized for each species for which limited permits are available, except that a second statewide conservation permit for a species may be authorized for a special event or fund raising activity held in Utah.
- (3) A limited number of area conservation permits may be authorized, with a maximum of 5% of the permits or eight permits, whichever is less, for any unit or hunt area, unless a higher number is specifically authorized by the Wildlife Board.
- (4) The number of conservation and sportsman permits available for use during the following year will be determined by the Wildlife Board ~~[annually]~~.
- (5) Area Conservation permits shall be deducted from the number of public drawing permits.
- (6) One sportsman permit may be authorized for each statewide conservation permit authorized.

R657-41-4. Obtaining Conservation Permits.

- (1) Statewide and area conservation permits may be awarded to eligible conservation organizations to market and sell, or to use as an aid in wildlife related fund raising activities.
- (2) ~~[(a)]~~ Conservation organizations may not:
- (a) bid for or obtain conservation permits if any employee, officer, or board of director member of the conservation organization is an employee, officer or board of director member of any other conservation organization that is submitting a bid for conservation permits; or
 - (b) enter into any pre-bidding discussions, understandings or agreements with any other conservation organization submitting a bid for conservation permits regarding:
 - (i) which permits will be sought by a bidder;

- (ii) what amounts will be bid for any permits; or
- (iii) trading, exchanging, or transferring any permits after permits are awarded.

(3)(a) Conservation organizations may apply for conservation permits by sending an application to the division for each permit requested.

(b) Only one application per conservation organization may be submitted. Multiple chapters of the same conservation organization may not apply individually.

~~{{3}}~~(4) The application must be submitted to the division by September 1 to be considered for the following year's conservation permits. Each application must include:

- (a) the name, address and telephone number of the conservation organization;
- (b) a copy of the conservation organization's mission statement;
- (c) verification of the conservation organization's tax exempt status under Internal Revenue Code, Section 501C-3 as amended;
- (d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(e) the type of permit and species for which the permit is requested; and
(f) any requested variances for an extended season or legal weapon choice for area conservation permits[-];

~~{{4}}~~(a)(g) evidence that the bid has been reviewed and approved by the board of directors of the bidding conservation organization;

(h) certification that there are no conflicts of interest or collusion in submitting bids as prohibited in Subsection (2); and

(i) acknowledgement that the conservation organization recognizes that falsely certifying the absence of collusion may result in cancellation of permits, disqualification from bidding for five years or more, and the filing of criminal charges.

(5)(a) Conservation organizations must further include in their applications the proposed bid amount for each permit. The proposed bid amount is the revenue the organization anticipates to be raised from a permit through auction or other lawful fund raising activity. ~~[The recommended minimum permit bid amount is listed in Table 1.]~~

(b) The basis for the bid amount must include the conservation organization's experience in similar activities, and details of the marketing plan.

[TABLE 1

RECOMMENDED MINIMUM PERMIT BID AMOUNT

Statewide Area

Species

Rocky Mountain Bighorn (Ram)	\$30,000	\$20,000
Desert Bighorn (Ram)	30,000	20,000
Buck Deer	10,000	2,000
Bull Elk	10,000	4,000
Bull Moose	10,000	3,000
Bison (Hunter's Choice)	5,000	5,000
Rocky Mountain Goat (Hunter's Choice)	5,000	3,000
Buck Pronghorn	2,000	1,000
Black Bear	2,000	1,000

Cougar 2,000-500
Turkey 350-250

~~(5)~~(6) An application which is incomplete or completed incorrectly may be rejected.

~~[(6)]~~(7) The application of a conservation organization for conservation permits may be denied for:

(a) failing to fully report on the preceding year's conservation permits;
(b) violating any provision of this rule, Title 23 of the Utah Code, Title R657 of the Utah Administrative Code, a division proclamation, or an order of the Wildlife Board ;
or

(c) violating any other law that bears a reasonable relationship to the applicant's ability to responsibly and lawfully handle conservation permits pursuant to this rule.

~~[(7)]~~(8) Conservation permits shall be awarded for one year, except as provided in Subsection ~~[(8)]~~(9).

~~[(8)]~~(9) Conservation organizations may apply for specific area conservation permits, which may be awarded for up to five consecutive years, provided the conservation organization meets the requirements provided in Subsection (a) for a multi-year permit.

(a)(i) the conservation organization must submit a bid for each multi-year area conservation permit requested and submit a specific project proposal for which the funds will be utilized;

(ii) the project must require more than one year of funding to complete;

(iii) the conservation organization must show the increased benefit to the division by the conservation organization carrying out the project;

(iv) the conservation organization must maintain each year a minimum performance standard, raising no less than 80% of the funds bid for each multi-year permit; and

(v) the conservation organization must report annually on the funds raised and expended, and the project activities accomplished.

(b) Conservation organizations failing to satisfy the performance standards in any given year during the multi-year period or reporting requirements shall lose the multi-year area conservation permit for the balance of the multi-year award period.

(c) Conservation organizations must submit a separate bid for each multi-year area conservation permit.

(d) Bids for multi-year area conservation permits shall be evaluated based on:

(i) an average annual benefit when compared to annual bids for permits; and

(ii) the requirements as provided in Subsection ~~[(9)]~~(10).

(e) Conservation organizations receiving multi-year permits shall handle permit revenue consistent with the requirements provided in Section R657-41-5(4) and (5).

~~[(9)]~~(10) The division shall recommend the conservation organization to receive each of the conservation permits based on:

(a) first, the bid amount pledged to the species, adjusted by:

(i) the performance of the organization over the previous two years in meeting proposed bids;

(ii) 90% of the bid amount;

(iii) organizations maintaining a minimum two-year average performance of 70% to be eligible for consideration of permits. Performance of the organization is the proportion of the total revenue generated from permit sales, divided by 90% of the bid amount for all permits, calculated annually and averaged for the last two years.

(b) second, if two or more conservation organizations are tied using the criteria in Subsection (a), the closeness of the organization's purpose to the species of the permit; and

(c) third, if two or more conservation organizations are tied using the criteria in Subsection (a) and (b), the geographic closeness of the organization to the location of the permit.

~~[(10)(a)]~~(11)(a) Between the time the division recommends that a conservation permit be awarded to a conservation organization and the time the Wildlife Board approves that recommendation, a conservation organization may withdraw its application for any given permit or exchange its application with another conservation organization without penalty, provided the bid amount upon which the permit application was evaluated is not changed.

(b) If a conservation organization withdraws its bid and the bid is awarded to another organization at a lower amount, then the difference between the two bids will be subtracted from the organization making the higher bid for purposes of evaluating organization performance.

~~[(11)]~~(12) The Wildlife Board shall make the final assignment of conservation permits at a meeting prior to December 1 annually.

~~[(12)]~~(13) The Wildlife Board may authorize a conservation permit to a conservation organization, other than the conservation organization recommended by the division, after considering the:

(a) division recommendation;

(b) benefit to the species;

(c) historical contribution of the organization to the conservation of wildlife in Utah;

(d) previous performance of the conservation organization; and

(e) overall viability and integrity of the conservation permit program.

~~[(13)]~~(14) The total of all bids for permits awarded to any one organization shall not exceed \$20,000 the first year an organization receives permits.

~~[(14)]~~(15) The number of permits awarded to any one organization shall not increase by more than 100% from the previous year.

~~[(15)]~~(16) If the Wildlife Board authorizes a second statewide conservation permit for a species, the conservation organization receiving the permit must meet the high bid for that permit.

~~[(16)]~~(17) The division and conservation organization receiving the permits shall enter into a contract.

~~[(17)(a)]~~(18)(a) The conservation organization receiving permits must insure that the permits are marketed and distributed by lawful means. Conservation permits may not be distributed in a raffle except where the following conditions are met:

(i) The conservation organization obtains and provides the division with a written

opinion from a licensed attorney or a written confirmation by the local district or county attorney that the raffle scheme will be in compliance with state and local gambling laws;

(ii) except as otherwise provided in R657-41-4(18)(d), the conservation organization does not repurchase, directly or indirectly, the right to any permit it distributes through the raffle;

(iii) the conservation organization prominently discloses in any advertisement for the raffle and at the location of the raffle that no purchase is necessary to participate; and

(iv) the conservation organization provides the division with a full accounting of any funds raised in the conservation permit raffle, and otherwise accounts for and handles the funds consistent with the requirement in Utah Admin. Code R657-41-5.

(b) The conservation organization must:

(i) obtain the name of the proposed permit recipient at the event where the permit recipient is selected; and

(ii) notify the division of the proposed permit recipient within 10 days of the recipient selection or the permit may be forfeited.

(c) If a person is selected by a qualified organization to receive a conservation permit and is also successful in obtaining a permit for the same species in the same year through the ~~[Bucks, Bulls and Once-In-A-Lifetime]~~ Big Game Drawing, that person may designate another person to receive the conservation permit, provided the conservation permit has not been issued by the division to the first selected person.

(d) If a person is selected by a qualified organization to receive a conservation permit, but is unable to use the permit, the conservation organization may designate another person to receive the permit provided:

(i) the conservation organization selects the new recipient of the permit;

(ii) the amount of money received by the division for the permit is not decreased;

(iii) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the ~~[redesignated]~~ re-designated permit, pursuant to the requirements provided in Section R657-41-5;

(iv) the conservation organization and the initial designated recipient of the permit, must sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(e) Except as otherwise provided under Subsection (c) and (d), a person designated by a conservation organization as a recipient of a conservation permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.

R657-41-5. Conservation Permit Funds and Reporting.

(1) All permits must be marketed by September 1, annually.

(2) Within 30 days of the last event, but no later than September 1 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of permits;

(b) the funds due to the division; and
(c) a report on the status of each project funded in whole or in part with retained conservation permit revenue.

(3)(a) Permits shall not be issued until the permit fees are paid to the division.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (5)(a).

(4)(a) Conservation organizations shall remit to the division by September 1 of each year 30% of the total revenue generated by conservation permit sales in that year.

(b) The permit revenue payable to the division under Subsection (4)(a), excluding accrued interest, is the property of the division and may not be used by conservation organizations for projects or any other purpose.

(c) The permit revenue must be placed in a federally insured account promptly upon receipt and remain in the account until remitted to the division on or before September 1 of each year.

(d) The permit revenue payable to the division under this subsection shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the permit revenue is not lost.

(e) Failure to remit 30% of the total permit revenue to the ~~{Division}~~ division by the September 1 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code, and may further disqualify the conservation organization from bidding on any future conservation permits.

(5) A conservation organization may retain 70% of the revenue generated from sale of conservation permits as follows:

(a) 10% of the revenue may be retained and used by the conservation organization for administrative expenses.

(b) 60% of the revenue may be retained and used by the conservation organization only for eligible projects as provided in subsections (i) through (x).

(i) "Retained revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits which the organization retains for eligible projects under this subsection, excluding interest earned thereon.

(ii) Eligible projects include habitat improvement, habitat acquisition, transplants and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued.

(iii) Retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

(iv) Retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species located in Utah.

(v) Cash donations to the Wildlife Habitat Account created under Section 23-19-43, ~~{division}~~ Division Species Enhancement Funds, or the Conservation Permit Fund shall be considered an eligible project and do not require the division director's approval, provided the donation is made with instructions that it be used for species of wildlife for which conservation permits are issued.

(vi) Retained revenue shall not be used on any project that is inconsistent with

Division policy, including feeding programs, depredation management, or predator control.

(vii) Any revenue retained under this subsection must be placed in a federally insured account. All interest revenue earned thereon may be retained and used by the conservation organization for administrative expenses.

(viii) Retained revenue shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the retained revenue is not lost.

(ix) Retained revenue must be completely expended on or committed to approved eligible projects by September 1 two years following the year in which the relevant conservation permits are awarded to the conservation organization by the Wildlife Board. Failure to commit or expend the retained revenue by the September 1 deadline will disqualify the conservation organization from bidding on any future conservation permits until the unspent retained revenue is committed to an approved eligible project.

(x) All records and receipts for projects under this subsection must be retained by the conservation organization for a period not less than five years, and shall be produced to the division for inspection upon request.

(6)(a) Conservation organizations accepting permits shall be subject to annual audits on project expenditures and conservation permit accounts.

(b) The division shall ~~perform~~ perform annual audits on project expenditures and conservation permit accounts.

R657-41-6. Obtaining Sportsman Permits.

(1) One sportsman permit is offered to residents through a drawing for each of the following species:

- (a) desert bighorn (ram);
- (b) bison (hunter's choice);
- (c) buck deer;
- (d) bull elk;
- (e) ~~Rocky Mountain bighorn (ram)~~
- (f) Rocky Mountain goat (hunter's choice)
- (g) bull moose;
- (h) buck pronghorn;
- (i) black bear;
- (j) cougar; and ~~[(k) sandhill crane; and]~~
- ~~[(4)](k)~~ wild turkey.

(2) The following information is provided in the proclamation of the Wildlife Board for taking big game:

- (a) hunt dates;
- (b) open units or hunt areas;
- (c) application procedures;
- (d) fees; and
- (e) deadlines.

R657-41-7. Using a Conservation or Sportsman Permit.

- (1)(a) A conservation or sportsman permit allows the recipient to take only the species for which the permit is issued.
- (b) The species that may be taken shall be printed on the permit.
- (c) The species may be taken in the area and during the season specified on the permit.
- (d) The species may be taken only with the weapon specified on the permit.
- (2) The recipient of a conservation or sportsman permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.
- (3) Bonus points shall not be awarded or utilized:
 - (a) when applying for conservation or sportsman permits; or
 - (b) in obtaining conservation or sportsman permits.
- (4) Any person who has obtained a conservation or sportsman permit is subject to all waiting periods as provided in Rules R657-5, R657-6, R657-10 and R657-33.

KEY: wildlife, wildlife permits

Date of enactment or last Substantive Change: January 5, 2004

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Last recommended changes added: April 21, 2006